REMARKS/ARGUMENTS

The Examiner is thanked for the review of the application.

Claims 1, 10, 11 and 19 remain in this application. Claims 1, 10 and 11 have been amended. Claims 21-32 have been added. No new matter has been added.

In the Office Action dated March 11, 2008 the Examiner rejected Claims 1, 10, 11 and 19 under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. Regarding this rejection, the Examiner has stated that she "is unable to determine the relationship between making changes in one lower priority rule and the changes in a higher priority rule."

Claims 1 and 11 have been amended to recite, in relevant part, "[]storing a plurality of rules, wherein each rule includes constraints; []prioritizing the plurality of rules; []identifying an infeasible rule of the plurality of rules, wherein the infeasible rule is not able to be satisfied; []identifying at least one lower priority rule which has a lower priority than the infeasible rule, wherein the at least one lower priority rule conflicts with the infeasible rule; []incrementally relaxing the at least one lower priority rule to enable the infeasible rules to become feasible, wherein the incremental relaxing of the at least one lower priority rule includes broadening the constraints of the said at least one lower priority rule such that the conflict between the at least one lower priority rule and the infeasible rule is eliminated; and []performing an optimization process, utilizing Bayesian shrinkage modeling, to generate the preferred set of prices wherein the preferred set of prices meets the plurality of rules wherein a rule is feasible if said optimization process can be performed without violating said rule, further wherein the preferred set of prices is a set of product prices generated for said plurality of products."

Support for the amendments to Claims 1 and 11 may be found on page 125, lines 1-22 of the specification as filed, which states "The rules are prioritized … A rule is deemed to be infeasible if the relationship expressed by the rule is not able to be satisfied … A determination is made whether rules with lower priorities than the priority of the LPI rule may be relaxed to allow the LPI rule to become feasible … If it is found that rules with lower priorities than that priority of the LPI rule may be relaxed to a point that allows the LPI rule to become feasible, then these rules with lower priorities are relaxed incrementally so that the LPI rule becomes feasible." See also page 127, line 6 to page 129, line 8 of the specification as filed for an example of rule relaxation.

Applicants believe that the amendments to Base Claims 1 and 11 better reflect the "relationship between making changes in one lower priority rule and the changes in a higher priority rule." As such, Claims 1 and 11 are believed to be allowable and fully enabled as amended. Claims 10 and 19 are believed to be allowable as depending from the enabled amended base Claims.

Additionally, the Examiner rejected Claims 1 and 10 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding this rejection, the Examiner has stated that she "is unable to determine what the structural makeup of the apparatus is [since] claim language is directed towards a data source which is not a device."

Moreover, in the same Office Action, the Examiner rejected Claims 1 and 10 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Regarding this rejection, the Examiner has stated that the "claims [1 and 10] are intended to embrace or overlap two different statutory classes of invention as set forth in 35 USC 101. The claims begin by discussing an apparatus (ex. preamble of claim 1), the body of the claim discusses the specifics of the computer readable code…"

Base Claim 1 preamble has been amended to include "<u>In a computing environment having a connection to a network, computer readable code</u> for computing a preferred set of prices for a plurality of products, comprising an optimization engine comprising computer readable media, comprising:" (Emphasis added).

Likewise, the preamble of Claim 10 has been amended to include "<u>The computer readable code according to</u> Claim 1, wherein the computer readable code for relaxing at least one lower priority rule, comprises:" (Emphasis added).

The amendments to Claims 1 and 10 resolve the claims as belonging to a single statutory class, thereby alleviating the Examiner's rejections under 35 USC 101 and 112, second paragraph. As such, Applicants believe that Claims 1 and 10 are allowable as amended.

Dependent Claims 21 and 27 have been added to state "[] enabling a user to-edit the plurality of rules and prioritize the plurality of rules." Support may be found at page 125, lines 2-5 of the specification as filed which states "A default prioritization may be provided, with an interface which may allow a user to change the prioritization from the default."

Dependent Claims 22 and 28 have been added to state "wherein at least one of the plurality of rules is a gross margin rule, which defines a constraint on gross margin changes." Support may be found at page 123, lines 15-18 of the specification as filed which states "A gross margin rule provides a constraint on the change of a mark up. A gross margin rule may provide a constraint on the change of the mark up…"

Dependent Claims 23 and 29 have been added to state "wherein the constraint on change of the gross margin is placed on each product of a group of products." Support may be found at page 123, lines 16-18 of the specification as filed which states "A gross margin rule may provide a constraint on the change of the mark up of each individual item in a group…"

Dependent Claims 24 and 30 have been added to state "wherein the constraint on change of the gross margin is placed on an average gross margin of a group of products." Support may be found at page 123, line 18 of the specification as filed which states "on the average mark up of the group"

Dependent Claims 25 and 31 have been added to state "wherein at least one of the plurality of rules is a store level volume rule, which defines a constraint on volume of sales changes at a store level." Support may be found at page 124, lines 3-5 of the specification as filed which states "A volume rule provides a constraint on the change or the volume of sales."

Dependent Claim 26 and 32 have been added to state "wherein at least one of the plurality of rules is a competition rule, which provides a constraint on difference between at least one competitor's prices and the preferred set of prices." Support may be found at page 124, lines 9-10 of the specification as filed which states "A competition rule provides a constraint on the difference between a competing store's prices."

In sum, base claims 1 and 11 have been amended and are now believed to be allowable. Dependent claim 10 has been amended and is now believed to be allowable. Claims 21-32 have been added. Dependent claims 10, 19 and 21-32 which depend therefrom are also believed to be allowable as being dependent from their respective patentable parent claims 1 and 11 for at least the same reasons. Hence, Examiner's rejection of dependent Claim 19 is rendered moot in view of the amendment to independent Claims 1 and 11. No new claims have been added. Applicants believe that all pending claims 1, 10, 11, 19 and 21-32 are now allowable over the cited art and are also in allowable form and respectfully request a Notice of Allowance for this application from the Examiner.

Applicants hereby petition for a two-month extension of time within which to respond to the referenced Office Action and enclose our Credit Card Payment Form authorizing the amount of $460.00 to cover the necessary fee. The commissioner is authorized to charge any additional fees that may be due to our Deposit Account No. 50-2766 (Order No. DEM1P007). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

LAW OFFICES OF KANG S. LIM   Respectfully submitted,
PMB 436
3494 Camino Tassajara Road   /Kang S. Lim/
Danville, CA 94506
Voice: (925) 570 8198
Facsimile: (925) 736 3974   Kang S. Lim
                                               Attorney for Applicant(s)
                                               Reg. No. 37,491

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